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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,083	11/19/2003	Kong Kyeom Kim	MUTU12.001DVI	9416
20995	7590	05/31/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			THOMPSON, CAMIE S	
			ART UNIT	PAPER NUMBER
			1774	

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/718,083	Applicant(s) KIM ET AL.	
	Examiner Camie S. Thompson	Art Unit 1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed March 8, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 17-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-12, 14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment and accompanying remarks filed March 8, 2005 have been acknowledged.
2. Examiner acknowledges amended claims 1, 12 and 14.
3. The objection to the specification is withdrawn due to applicant's submission of a new abstract.
4. The rejection of claims 1-16 under 35 U.S.C. 112, second paragraph is withdrawn due to applicant's amended claims 1, 12 and 14.
5. The rejection of claims 1-3, 5-6 and 16 under 35 U.S.C. 102(a) as being anticipated by CN 1338499 is withdrawn due to applicant's submission of the translation of the Korean foreign priority documents.
6. The rejection of claims 1, 12 and 14 under 35 U.S.C. 103(a) as being unpatentable over CN 1338499 in view of Salbeck et al., U.S. Patent Number 6,211,369 is withdrawn due to applicant's submission of the translation of the Korean foreign priority documents.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

Art Unit: 1774

F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-6, 8-12, 14 and 16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 30, 36-37, 59, 62-64, 66-67, 74 and 79-84 of copending Application No. 10/431,349. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite an organic electroluminescent device comprising an anode, a cathode and at least one layer located between the anode and the cathode. Additionally, both applications recite a light emitting layer, hole injecting or hole transporting layers and electron injecting or electron transporting layers. Also, both applications recite a light-emitting layer comprising a double spiro compound and a fluorescent or phosphorescent compound. The co-pending application does not specifically recite a double-spiro compound wherein R1 through R24 are substituent groups, identical or different, and wherein not all of R1 through R24 are hydrogen, which is generic. However, the co-pending application does disclose compounds 21-24 that are double spiro compounds wherein not all of R1 through R24 are hydrogen. Therefore, it would have

Art Unit: 1774

been obvious to one of ordinary skill in the art to use double spiro compounds 21-24 as they are species within the generic group of double spiro compounds.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 7, 13 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not provide for the recited electroluminescent device comprising a double-spiro compound selected from the chemical compounds 100-127, 130, 132, 135-137, 200-222 and 400-413.


Response to Arguments

10. Applicant's arguments filed March 8, 2005 have been fully considered but they are not persuasive. Applicant argues the judicially created doctrine of obviousness-type double patenting. Applicant argues that claim 1 is generic to the restricted species. Applicant made species election for claims 7, 13 and 15. Claim 1 is generic. Compounds 21-24 of co-pending application 10/431,349 read on instant claim 1 for the generic double spiro compounds wherein not all of R1 through R24 are hydrogen. The rejection is maintained.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (571) 272-1530. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L. Dye, can be reached at (571) 272-3186. The fax phone number for the Group is (703) 872-9306.

Art Unit: 1774

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RENA DYE
SUPERVISORY PATENT EXAMINER
A.U. 1774 status